IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1547 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

TALUKA DEVELOPMENT OFFICER

Versus

JAYESHBHAI KANTILAL SHAH

Appearance:

MR MUKESH R SHAH for Petitioners

MR YV SHAH for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 20/04/2000

ORAL JUDGEMENT

Rule, service of which is waived by Mr.Y.V.Shah, the learned advocate for the respondent workman. On the facts and in the circumstances of the case, the matter is taken up for final hearing today itself.

In this matter, the petitioner has challenged the award passed by the labour court, Godhra in reference No. 389 of 1994 dated 20th October, 1997 whereby the labour court, Godhra has directed the petitioner to reinstate the respondent workman in service with continuity of service and with full back wages for the intervening period. Said award has been passed by the labour court in absence of the petitioner and while passing the said award, the labour court has relied upon the evidence of the respondent as the petitioner has not remained present and as the petitioner has produced no evidence in the proceedings before the labour court.

During the course of hearing, Mr. Y.V.Shah, the learned advocate for the respondent workman has agreed for quashing of the impugned award provided that the respondent workman is reinstated in service subject to the ultimate out come of the reference. Considering this concession given by learned advocate Mr. Shah for the respondent workman, the impugned award in reference No. 389 of 1994 dated 20th October, 1997 is hereby quashed and set aside and the petitioner is directed to reinstate the respondent workman in service subject to the result of the said reference before the labour court. It is clarified that the said reinstatement of the respondent workman in service shall be without prejudice to the rights and contentions of the either side. In the facts and circumstances of the case, the labour court is directed to decide the said reference No. 389 of 1994 within six months from the date of receipt of writ of these orders. The labour court shall decide the said reference strictly in accordance with law and after giving full opportunity to both the parties to lead oral evidence and produce documentary evidence before the labour court and both the parties shall extend their positive cooperation in expeditious disposal of the said reference within the period as aforesaid. It is also clarified that these orders of quashing of the impugned award as also the reinstatement of the respondent workman have been passed without prejudice to the rights and contentions of the parties and, therefore, the labour court shall decide the said reference strictly in accordance with law without being influenced by the orders passed by this court. The petitioner shall reinstate the respondent within three weeks from today and the petitioner will also pay salary regularly to the respondent workman. Subject to the aforesaid directions, this petition is disposed of. Rule is made absolute in terms indicated hereinabove.

20.4.2000. (H.K.Rathod,J.)

Vyas